UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,790	12/29/2005	Liam Murphy	27151U	4028

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EXAMINER
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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>December 29, 2005</u>.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-13</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-13</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

        1.☒ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
           application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Specification

1.   The disclosure is objected to because of the following informalities: the specification

refers to the claims of the application. For example, page 4 lines 12 of the specification recite,

"According to the present invention there is provided a method according to claim 1."

        Appropriate correction is required.

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

   Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
   any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
   requirements of this title.

3.   Claims 12 and 13 is directed to non-statutory subject matter.

        Claim 12 is directed to an application running in a device, which is not a "process,

machine, manufacture, or composition of matter, or any new and useful improvement thereof."

Claim 13 is directed to a computer program product, which is not a "process, machine,

manufacture, or composition of matter, or any new and useful improvement thereof."

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

   A person shall be entitled to a patent unless –

   (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on
   sale in this country, more than one year prior to the date of application for patent in the United States.

5.   Claims 1-5 and 8-13 are rejected under 35 U.S.C. 102(b) as being anticipated by

Lockridge et al. (U.S. Patent Application Publication 2004/0090994).

   For claim 1, Lockridge et al. disclose a method for determining clock skew in a packet-

based session comprising the steps of receiving a sequence of control packets from a remote

device transmitting media packets in a session; each control packet including a remote real time-

stamp; and a remote media card clock time-stamp corresponding to the remote real time-stamp

(see paragraphs 11, which recite receiving packets with two sets of timestamps); and determining

from two or more of said received control packets a first relative rate of a remote media card

clock to the remote real time rate *(see paragraph 31, which recite the client's system clock that

uses the time stamps to track the server's system clock)*.

   For claim 2, Lockridge et al. disclose a method comprising the steps of transmitting a

sequence of control packets from a local device transmitting media packets in a session; each

control packet including a local real time-stamp; and a local media card clock time-stamp

corresponding to the local real time-stamp *(see paragraphs 9 and 10, which recite transmitting

packets with two sets of timestamps)*; and determining from two or more of said transmitted

control packets a second relative rate of a local media card clock to the local real-time rate *(see

paragraph 31, which recite the client's system clock that uses the time stamps to track the

server's system clock)*.

   For claim 3, Lockridge et al. disclose a method for determining clock skew in a packet-

based session comprising the step of synchronizing said local real time rate with said remote real

time-rate *(see paragraph 8)*.

For claim 4, Lockridge et al. disclose a method for determining clock skew in a packet-based session wherein said devices communicate across an Internet Protocol (IP) network *(see paragraph 35)*.

For claim 5, Lockridge et al. disclose a method for determining clock skew in a packet-based session wherein said network is one of a LAN (Local Area Network) a WAN (Wide Area Network) or the Internet *(see paragraph 62)*.

For claim 8, Lockridge et al. disclose a method for determining clock skew in a packet-based session further comprising the step of adjusting the contents of a buffer storing said media packets received from a transmitting device according to said first and second relative rates *(see paragraph 31)*.

For claim 9, Lockridge et al. disclose a method for determining clock skew in a packet-based session further comprising the step of: determining from a difference in time between local real time when a control packet is received and the remote real time-stamp of said control packet, a first approximation of one-way media packet delay; and determining from said first relative rate and said first approximation a skew-corrected one-way media packet delay between devices in said session *(see paragraph 28)*.

For claim 10, Lockridge et al. disclose a method for determining clock skew in a packet-based session further comprising the step of: adjusting a playout strategy of said session according to said skew-corrected one-way media packet delay *(see paragraph 31)*.

For claim 11, Lockridge et al. disclose a method for determining clock skew in a packet-based session wherein said real time-stamp is a system clock time.*(see paragraph 10)*.

   For claim 12, Lockridge et al. disclose an application running in a device arranged to

perform a method for determining clock skew in a packet-based session using multiple time-

stamps *(see paragraph 62)*.

   For claim 13, Lockridge et al. disclose a computer program product which when

executed in a device is arranged to perform a method for determining clock skew in a packet-

based session using multiple time-stamps *(see paragraph 62)*.

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

7.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

   1.   Determining the scope and contents of the prior art.
   2.   Ascertaining the differences between the prior art and the claims at issue.
   3.   Resolving the level of ordinary skill in the pertinent art.
   4.   Considering objective evidence present in the application indicating obviousness
          or nonobviousness.

8.   This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9.   Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lockridge et al.

(U.S. Patent Application Publication 2004/0090994) as applied in claim 4, and in view of

Ravikanth (U.S. Patent 6,327,274).

        For claim 6, Lockridge et al. disclose all the subject matter of the claimed invention with

the exception wherein the method for determining clock skew in a packet-based session wherein

synchronization uses the Network Time Protocol. Ravikanth from the same or similar fields of

endeavor disclose a method for measuring relative skew between clocks in a packet system that

uses the Network Time Protocol *(see abstract and column 1 lines 51-57)*. Thus, it would have

been obvious to the person of ordinary skill in the art at the time of the invention to implement

the method for determining clock skew in a packet-based session wherein synchronization uses

the Network Time Protocol as taught by Ravikanth with the method for determining clock skew

in a packet-based session as taught by Lockridge et al. The method for determining clock skew

in a packet-based session wherein synchronization uses the Network Time Protocol as taught by

Ravikanth can be implemented by configuring the network nodes of the apparatus for

determining clock skew in a packet-based session as taught by Lockridge et al. to request and

receive NTP data. The motivation for using the method for determining clock skew in a packet-

based session wherein synchronization uses the Network Time Protocol as taught by Ravikanth

with the method for determining clock skew in a packet-based session as taught by Lockridge et
al. is to increase the compatibility of the system by using the commonly available NTP data.

10.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lockridge et al.
(U.S. Patent Application Publication 2004/0090994) as applied in claim 1, and in view of
Shimoyama et al. (U.S. Patent 6,643,496).

        For claim 7, Lockridge et al. disclose all the subject matter of the claimed invention with
the exception wherein the media packets are Realtime Transport Protocol (RTP) packets and
wherein said control packets are RTP Control Protocol (RTCP) Sender Report (SR) packets.
Shimoyama et al. from the same or similar fields of endeavor disclose a method for adjusting
transmission rates by using the timestamps of RTCP Sender Report packets *(see column 4 lines
1-8)*. Thus, it would have been obvious to the person of ordinary skill in the art at the time of the
invention to implement the method for adjusting transmission rates by using the timestamps of
RTCP Sender Report packets as taught by Shimoyama et al. with the method for determining
clock skew in a packet-based session as taught by Lockridge et al. The method for adjusting
transmission rates by using the timestamps of RTCP Sender Report packets as taught by
Shimoyama et al. can be implemented by configuring the network nodes of the apparatus for
determining clock skew in a packet-based session to utilize the RTP standard to transmit RTCP
sender reports as taught by Lockridge et al. The motivation for using the method for adjusting
transmission rates by using the timestamps of RTCP Sender Report packets as taught by
Shimoyama et al. with the method for determining clock skew in a packet-based session as

taught by Lockridge et al. is to increase the compatibility of the system by using the RTP

standard.

Conclusion

11.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure. *(see form PTO-892)*.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to BEN H. LIU whose telephone number is (571)270-3118. The

examiner can normally be reached on 9:00AM to 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BL
/FIRMIN BACKER/
Supervisory Patent Examiner, Art Unit 2616